

II. RESPONSE

Independent claims 1, 17, 27, 41, 42 and 43 have each been amended in order to more particularly point out and distinctly claim the subject matter of the claims. No amendments have been made to the other (dependent) claims.

Claim 1 now recites that the top layer is printed or coated on the base layer and is soluble in said fluid. Corresponding amendments have been made to the other claims.

It will be clear to one skilled in the art that the aqueous drop-coating solution described on page 15 of the present specification comprises water-soluble components which will be readily soluble in any aqueous or biological fluid sample applied to the enzyme electrode. The drop-coating solution does not contain any component which would be expected to form a gel or other water-resistant film or membrane.

The Applicants are pleased to note acknowledgement in the Office Action that claims 30-33 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims. However, the Applicants believe that the invention should be entitled to broader protection than is provided by claims 30-33, and offer the following comments for consideration. In this regard, Applicants note that certain of the claims have been rejected over numerous references. Because the subject matter of the pending claims are distinguishable over all of the cited references, Applicants make the following arguments over the cited references without conceding that any of the cited references are prior art to the present application.

A. The Information Disclosure Statement

Attached hereto are copies of Japanese patents JP2062952, JP1253648 and JP1291153, which correspond to references B78, B79 and B80 cited in the IDS submitted on October 31, 2003. Applicants respectfully request that an initialed copy of the 1449 listing these references be provided.

Additionally, Applicants note that the information disclosure statement mailed by Applicants on October 4, 2006 citing reference A85 (U.S. Patent No. 5,616,222) and reference B93 (Japanese patent publication JP04326054) has not yet been initialed and returned to Applicants. Applicants respectfully request that the references of the information disclosure statement be considered and that the initialed 1449 corresponding to this information disclosure statement be returned to Applicants.

B. The 35 USC §102 Rejections over Chan and Asakura

Applicants do not agree that Chan (US 6,627,058) anticipates claims 1-4, 7-9, 13, 17-20, 25 and 26. In the passage cited by the Office Action, (col. 8, lines 25-31), a biosensor has "...an enzyme-containing gel disk placed on top of the three electrodes of a printed electrochemical sensor. The gel disk contains a poly(ethylene oxide) gel, NaCl and phosphate buffer, and glucose oxidase enzyme..."

The "gel disk" is neither printed nor coated on the base layer, as specified in the amended independent claims. Nor does Chan disclose, teach or suggest that the gel disk is soluble in the fluid to be analyzed. Accordingly, the Applicant submits that Chan does not anticipate or render obvious any of the claims now on file. Favorable reconsideration is requested.

In the biosensors described by Asakura (EP 0 771 867 A2), the base layer is porous (col. 7, line 33) and an enzyme is adsorbed or immobilised on its surface (col. 1, lines 54-55). The enzyme is buffered (col. 8, lines 45-47). On top of this is coated gelatine cross-linked with

glutaraldehyde (col. 8, line 56 to col. 9, line 6) to form a “stabilizing layer” which prevents “leaching of the enzyme” (col. 5, lines 55-56). Alternative cross-linked stabilizing layers are described in Examples 5 and 6. In each example, the enzyme is entrapped by the stabilizing layer. The stabilizing layer clearly is not soluble in an applied fluid sample because if it were it would not perform its function of preventing leaching of the enzyme. Accordingly, Asakura does not anticipate claims 1-4 and 8-14. Favorable reconsideration is requested.

C. The 35 USC §103(a) Rejections

The Office Action asserts that amended independent Claims 17, 27, 42 and 43 are unpatentable in view of Asakura in view of Ikeda et al (US 5,575,895). In each of the five examples of Ikeda, a biosensor is described which includes potassium ferricyanide as an electron acceptor (=mediator). Thus, Ikeda teaches mediated systems, in contrast to the present invention. The differences between Asakura and the present invention, as discussed above, are neither disclosed nor taught in either Asakura or Ikeda. Accordingly, it is submitted that present claims 17, 27, 42 and 43 each specify inventive subject matter and are non-obvious over Asakura in view of Ikeda. Favorable reconsideration is requested.

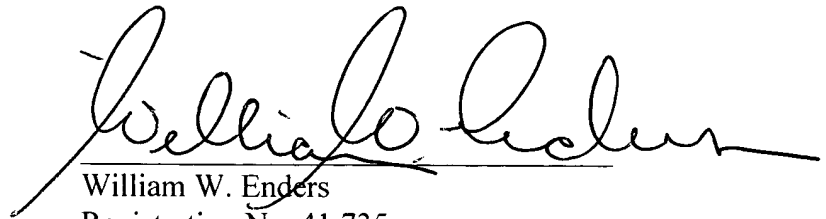
In the Office Action, the Examiner considers that the subject matter of Claims 41 and 42 would have been obvious to one of ordinary skill in the art having regard to Chan. Amended independent Claims 41 and 42 contain the limitations discussed above in respect of the 35 USC 102 rejections, and these limitations are neither taught nor suggested by Chan. Thus, present claims 41 and 42 specify patentable subject matter over Chan.

D. Conclusion

The Examiner is respectfully requested to reconsider the rejections and acknowledge patentability of the claims now on file. Since independent claims 1, 17 and 27 have been shown to be novel and non-obvious over the cited references, the rejected claims depending from these claims are believed also to be novel and non-obvious for at least the reasons set forth above.

Should any fees under 37 CFR 1.16-1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct such fees from Deposit Account No. 10-1205/DUMM:011. The Examiner is invited to contact the undersigned at the phone number indicated below with any questions or comments, or to otherwise facilitate expeditious and compact prosecution of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William W. Enders', written over a horizontal line.

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